

REMARKS

This is intended as a full and complete response to the Restriction Requirement dated September 28, 2004, having a shortened statutory period for response set to expire on October 28, 2004. Please reconsider the claims pending in the application for reasons discussed below.

In response to Applicants' previous restriction election the Examiner found the Applicants' arguments regarding the restriction of Groups I and II were not persuasive. In particular, the Examiner disagrees with the Applicants' argument that claim 11 requires at least two applications. However, upon reviewing the Applicants' filed response, the Applicants discovered a typographical error which resulted in the Examiner's conclusion. The following excerpt from the Applicants' response contains the typographical error:

"A restriction pursuant to MPEP § 806.05(d) requires that the Examiner show, by way of example, that one of the subcombinations has utility other than in the disclosed combination. (Emphasis added.) The Examiner states invention II has separately utility "such as requiring at least two applications." However, the requirement of two applications is an explicit recitation of claim 11 of Invention II and thus not an example of "separate utility".

Specifically, Applicants referred to "claim 11 of Invention II", when, in fact, Invention II does not include claim 11 and as pointed out by the Examiner claim 11 does not recite "at least two applications". The only claim reciting "at least two applications" is claim 13 of Invention II. Therefore, the reference to claim 11 is an obvious clerical error on the part of Applicants. To elaborate on the Applicants' arguments, Applicants point out that the disclosed combination includes at least two applications. Therefore, the restriction is improper because the Examiner has not shown, by way of example, that one of the subcombinations has utility other than in the disclosed combination. In view of the typographical error pointed out by the Applicants, reconsideration of the restriction is respectfully requested.

The Examiner now further submits that the application contains claims directed to the following patentably distinct species of the claimed invention Group I:

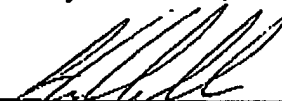
Group IA - 1, 2, 3, 4, 8, 9, 10, 11 and 12

Group IB - 1, 5, 6, and 7

Pursuant to the rules requiring election of a species Applicants provisionally elect Group IA with traverse. However, Applicants submit that Group IA and Group IB do not claim patently distinct species. "Claims to be restricted to different species must be mutually exclusive. The general test as to when claims are restricted, respectively, to different species is the fact that one claim recites limitations which under the disclosure are found in a first species but not in a second, while a second claim recites limitations disclosed only for the second species and not the first." MPEP § 806.04(f) (emphasis added). The claims of Group IA and Group IB are not mutually exclusive. The Examiner is directed to Figure 4 of the present application which shows the all recited limitations of Group IA and Group IB in the same embodiment (see, elements 404, 408, 412, and 415). Therefore, the claims of Group IA and Group IB do not satisfy the general test for restricting claims to different species. Withdrawal of the restriction is respectfully requested. Should the Examiner have any questions regarding this response, the Examiner is kindly requested to call the attorney signing below at the designated telephone number in effort to move prosecution forward on the merits.

Having addressed all issues set out in the Restriction Requirement, Applicants respectfully submit that the claims are in condition for allowance and respectfully request that the claims be allowed.

Respectfully submitted,



Gero G. McClellan
Registration No. 44,227
MOSER, PATTERSON & SHERIDAN, L.L.P.
3040 Post Oak Blvd. Suite 1500
Houston, TX 77056
Telephone: (713) 623-4844
Facsimile: (713) 623-4846
Agent for Applicant(s)